

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

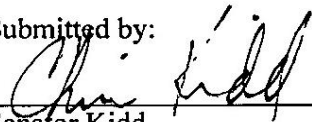
No. 1

COMMITTEE AMENDMENT

(Date)

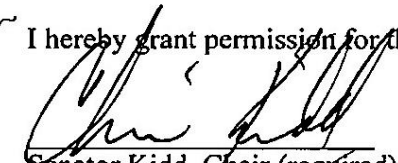
I move to amend House Bill No. 3738, by the attached floor substitute (Request #3778) for the title, enacting clause and entire body of the measure.

Submitted by:



Senator Kidd

I hereby grant permission for the floor substitute to be adopted.



Senator Kidd, Chair (required)



Senator Hall

Senator Alvord

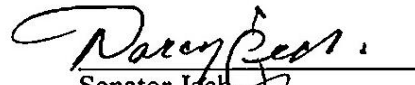
Senator Boren



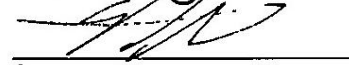
Senator Green

Senator Hamilton

Senator Treat, President Pro Tempore



Senator Jech



Senator Paxton



Senator Rogers

Senator Woods

Senator Young

Senator McCortney, Majority Floor Leader

Note: Agriculture & Rural Affairs committee majority requires six (6) members' signatures.

I hereby grant permission for the floor substitute to be adopted.



Senator Rader
Finance Committee Chair

Kidd-QD-FS-HB3738
4/23/2024 5:25 PM

(Floor Amendments Only)

Date and Time Filed: 4-24-24 1:33 pm dl

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 FLOOR SUBSTITUTE
4 FOR ENGROSSED

5 HOUSE BILL NO. 3738

By: Dempsey of the House

and

Kidd and Bullard of the
Senate

10 FLOOR SUBSTITUTE

11 [revenue and taxation - sales tax exemptions for
12 agriculture - definitions - effective date]

15 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

16 SECTION 1. AMENDATORY 68 O.S. 2021, Section 1358, is
17 amended to read as follows:

18 Section 1358. Exemptions - Agriculture.

19 A. There are hereby specifically exempted from the tax levied
20 by Section 1350 et seq. of this title:

21 1. Sales of agricultural products produced in this state by the
22 producer thereof directly to the consumer or user when such articles
23 are sold at or from a farm and not from some other place of
24 business, as follows:

1 a. farm, orchard, or garden products, and

2 b. dairy products sold by a dairy producer or farmer who
3 owns all the cows from which the dairy products
4 offered for sale are produced;

5 provided, the provisions of this paragraph shall not be construed as
6 exempting sales by florists, nursery operators or chicken
7 hatcheries, or sales of dairy products by any other business except
8 as set out herein;

9 2. Livestock, including cattle, horses, mules, or other
10 domestic or draft animals, sold by the producer by private treaty or
11 at a special livestock sale;

12 3. Sale of baby chicks, turkey poults and starter pullets used
13 in the commercial production of chickens, turkeys and eggs;
14 provided, that the purchaser certifies, in writing, on the copy of
15 the invoice or sales ticket to be retained by the vendor that the
16 pullets will be used primarily for egg production;

17 4. Sale of salt, grains, tankage, oyster shells, mineral
18 supplements, limestone, and other generally recognized animal feeds
19 for the following purposes and subject to the following limitations:

20 a. feed which is fed to poultry and livestock, including
21 breeding stock and wool-bearing stock, for the purpose
22 of producing eggs, poultry, milk, or meat for human
23 consumption,

1 b. feed purchased in Oklahoma for the purpose of being
2 fed to and which is fed by the purchaser to horses,
3 mules, or other domestic or draft animals used
4 directly in the producing and marketing of
5 agricultural products, and

6 c. any stock tonics, water purifying products, stock
7 sprays, disinfectants, or other such agricultural
8 supplies.

9 "Poultry" shall not be construed to include any fowl other than
10 domestic fowl kept and raised for the market or production of eggs.

11 "Livestock" shall not be construed to include any pet animals such
12 as dogs, cats, birds, or such other fur-bearing animals. This
13 exemption shall only be granted and extended where the purchaser of
14 feed that is to be used and in fact is used for a purpose that would
15 bring about an exemption hereunder executes an invoice or sales
16 ticket in duplicate on a form to be prescribed by the Oklahoma Tax
17 Commission. The purchaser may demand and receive a copy of the
18 invoice or sales ticket and the vendor shall retain a copy;

19 5. Sales of items to be and in fact used in the production of
20 agricultural products. Sale of the following items shall be subject
21 to the following limitations:

22 a. sales of agricultural fertilizer to any person
23 regularly engaged, for profit, in the business of
24 farming or ranching,

1 b. sales of agricultural fertilizer to any person engaged
2 in the business of applying such materials on a
3 contract or custom basis to land owned or leased and
4 operated by persons regularly engaged, for profit, in
5 the business of farming or ranching. In addition to
6 providing the vendor proof of eligibility as provided
7 in Section 1358.1 of this title, the purchaser shall
8 provide the name or names of such owner or lessee and
9 operator and the location of the lands on which ~~said~~
10 such materials are to be applied to each such land,

11 c. sales of agricultural fertilizer, pharmaceuticals, and
12 biologicals to persons engaged in the business of
13 applying such materials on a contract or custom basis
14 shall not be considered to be sales to contractors
15 under this article, and ~~said~~ such sales shall not be
16 considered to be taxable sales within the meaning of
17 the Oklahoma Sales Tax Code. As used in this section,
18 "agricultural fertilizer", "pharmaceuticals", and
19 "biologicals" mean any substance sold and used for
20 soil enrichment or soil corrective purposes or for
21 promoting the growth and productivity of plants or
22 animals,

23 d. sales of agricultural seed or plants to any person
24 regularly engaged, for profit, in the business of

1 farming or ranching. This section shall not be
2 construed as exempting from sales tax, seed which is
3 packaged and sold for use in noncommercial flower and
4 vegetable gardens, and

- 5 e. sales of agricultural chemical pesticides to any
6 person regularly engaged, for profit, in the business
7 of farming or ranching. For the purposes of this
8 subparagraph, "agricultural chemical pesticides" shall
9 include any substance or mixture of substances
10 intended for preventing, destroying, repelling, or
11 mitigating any insect, snail, slug, rodent, bird,
12 nematode, fungus, weed, or any other form of
13 terrestrial or aquatic plant or animal life or virus,
14 bacteria or other microorganism, except viruses,
15 bacteria or other microorganisms on or in living man,
16 or any substance or mixture of substances intended for
17 use as a plant regulator, defoliant, or desiccant.

18 The exemption provided in this paragraph shall only be granted
19 and extended to the purchaser where the items are to be used and in
20 fact are used in the production of agricultural products;

21 6. Sale of farm machinery, repair parts thereto or fuel, oil,
22 lubricants, and other substances used for operation and maintenance
23 of the farm machinery to be used directly on a farm or ranch in the
24 production, cultivation, planting, sowing, harvesting, processing,

1 spraying, preservation, or irrigation of any livestock, poultry,
2 agricultural, or dairy products produced from such lands. The
3 exemption specified in this paragraph shall apply to such farm
4 machinery, repair parts or fuel, oil, lubricants, and other
5 substances used by persons engaged in the business of custom
6 production, cultivation, planting, sowing, harvesting, processing,
7 spraying, preservation, or irrigation of any livestock, poultry,
8 agricultural, or dairy products for farmers or ranchers. The
9 exemption provided for herein shall not apply to motor vehicles;

10 7. Sales of supplies, machinery, and equipment to persons
11 regularly engaged in the business of raising evergreen trees for
12 retail sale in which such trees are cut down on the premises by the
13 consumer purchasing such tree. This exemption shall only be granted
14 and extended when the items in fact are used in the raising of such
15 evergreen trees; and

16 8. Sales of materials, supplies, and equipment to an
17 agricultural permit holder or to any person with whom the permit
18 holder has contracted to construct facilities which are or which
19 will be used directly in the production of any livestock, including,
20 but not limited to, facilities used in the production and storage of
21 feed for livestock owned by the permit holder. Any person making
22 purchases on behalf of the agricultural permit holder shall certify,
23 in writing, on the copy of the invoice or sales ticket to be
24 retained by the vendor, that the purchases are made for and on

1 behalf of such permit holder and set out the name and permit number
2 of such holder. Any person who wrongfully or erroneously certifies
3 that purchases are for an agricultural permit holder or who
4 otherwise violates this subsection shall be guilty of a misdemeanor
5 and, upon conviction thereof, shall be punishable by a fine of an
6 amount equal to double the amount of sales tax involved or
7 imprisonment in the county jail for not more than sixty (60) days or
8 by both such fine and imprisonment.

9 B. As used in this section and Section 1358.1 of this title:

10 1. "Agricultural products" shall include horses, timber, and
11 seedlings of trees grown for commercial timber; and

12 2. "Farming" or "farm" shall include timber producers;

13 3. "Ranching" or "ranch" shall include the business, or
14 facilities for the business, of raising horses;

15 4. "Timber" means trees grown primarily for the commercial
16 production of food, wood, or wood fiber products; and

17 5. "Timber producer" means a person who:

18 a. harvests timber that the person owns and continues to
19 own until the timber is processed, packed, or
20 marketed; or

21 b. grows timber, exercises predominant operational
22 control over the growth of the timber, and bears the
23 risk of loss of investment in the timber.

24

1 Provided, sales of items at race meetings as defined in Section
2 200.1 of Title 3A of the Oklahoma Statutes shall not be exempt
3 pursuant to the provisions of this section and Section 1358.1 of
4 this title.

5 SECTION 2. This act shall become effective November 1, 2024.

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7 59-2-3778 QD 4/24/2024 2:42:31 PM

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